

## Message Text

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FM USMISSION USUN NEW YORK  
TO SECSTATE WASHDC 4508

UNCLAS SECTION 1 OF 6 USUN 2276

FROM LOS DEL

E.O. 11652: N/A  
TAGS: PLOS  
SUBJECT: LOS - COMMITTEE II - JULY 12-13, 1977

1. CONSULTATIVE GROUP I (LEGAL STATUS OF EEZ) MET  
JULY 12 TO CONSIDER A NEW TEXT ON THE JURIDICAL STATUS  
OF THE EEZ (TEXT FOLLOWS):

QUOTE

PART II

43 BIS

THE EXCLUSIVE ECONOMIC ZONE IS AN AREA BEYOND AND  
ADJACENT TO THE TERRITORIAL SEA, SUBJECT TO THE SPECIFIC  
LEGAL REGIME ESTABLISHED IN THIS CHAPTER, UNDER WHICH  
THE RIGHTS AND JURISDICTION OF THE COASTAL STATE AND THE  
RIGHTS AND FREEDOMS OF THE OTHER STATES ARE GOVERNED BY THE  
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RELEVANT PROVISIONS OF THE PRESENT CONVENTION.

ARTICLE 44

1. IN THE EXCLUSIVE ECONOMIC ZONE, THE COASTAL STATE HAS:  
A) SOVEREIGN RIGHTS FOR THE PURPOSE OF EXPLORING  
AND EXPLOITING, CONSERVING AND MANAGING THE

NATURAL RESOURCES, WHETHER LIVING OR NON-LIVING, OF THE SEA-BED AND SUBSOIL AND THE SUPERJACENT WATER, AND WITH REGARD TO OTHER ACTIVITIES FOR THE ECONOMIC EXPLOITATION AND EXPLORATION OF THE ZONE, SUCH AS THE PRODUCTION OF ENERGY FROM THE WATER, CURRENTS AND WINDS;

B) JURISDICTION AS PROVIDED FOR IN THE RELEVANT PROVISIONS OF THE PRESENT CONVENTION WITH REGARD TO:  
(I) THE ESTABLISHMENT AND USE OF ARTIFICIAL ISLANDS, INSTALLATIONS AND STRUCTURES;  
(II) MARINE SCIENTIFIC RESEARCH;  
(III) THE PRESERVATION OF THE MARINE ENVIRONMENT, INCLUDING POLLUTION CONTROL AND ABATEMENT;

C) OTHER RIGHTS AND DUTIES PROVIDED FOR IN THE PRESENT CONVENTION.

2. IN EXERCISING ITS RIGHTS AND PERFORMING ITS DUTIES UNDER THE PRESENT CONVENTION IN THE EXCLUSIVE ECONOMIC ZONE, THE COASTAL STATE SHALL HAVE DUE REGARD TO THE RIGHTS AND DUTIES OF OTHER STATES AND SHALL ACT IN A MANNER COMPATIBLE WITH THE PROVISIONS OF THE PRESENT CONVENTION.

3. THE RIGHTS SET OUT IN THIS ARTICLE WITH RESPECT TO UNCLASSIFIED

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THE BED AND SUBSOIL SHALL BE EXERCISED IN ACCORDANCE WITH CHAPTER IV.

ARTICLE 46

1. IN THE EXCLUSIVE ECONOMIC ZONE, ALL STATES, WHETHER COASTAL OR LAND-LOCKED, ENJOY, SUBJECT TO THE RELEVANT PROVISIONS OF THE PRESENT CONVENTION, THE FREEDOMS REFERRED TO IN ARTICLE 76 OF NAVIGATION AND OVERFLIGHT AND OF THE LAYING OF SUBMARINE CABLES AND PIPELINES, AND OTHER INTERNATIONALLY LAWFUL USES OF THE SEA RELATED TO THESE FREEDOMS SUCH AS THOSE ASSOCIATED WITH THE OPERATION OF SHIPS AIRCRAFT AND SUBMARINES CABLES AND PIPELINES, AND COMPATIBLE WITH THE OTHER PROVISIONS OF THIS CONVENTION.

2. ARTICLES 77 TO 103 AND OTHER PERTINENT RULES OF INTERNATIONAL LAW APPLY TO THE EXCLUSIVE ECONOMIC ZONE IN SO FAR AS THEY ARE NOT INCOMPATIBLE WITH THIS CHAPTER.

3. IN EXERCISING THEIR RIGHTS AND PERFORMING THEIR DUTIES UNDER THE PRESENT CONVENTION IN THE EXCLUSIVE ECONOMIC ZONE, STATES SHALL HAVE DUE REGARD TO THE RIGHTS AND DUTIES

OF THE COASTAL STATE AND SHALL COMPLY WITH THE LAWS AND REGULATIONS ESTABLISHED BY THE COASTAL STATE IN ACCORDANCE WITH THE PROVISIONS OF THIS CONVENTION AND OTHER RULES OF INTERNATIONAL LAW INSOFAR AS THEY ARE NOT INCOMPATIBLE WITH THIS CHAPTER.

ARTICLE 75

THE PROVISIONS OF THIS CHAPTER APPLY TO ALL PARTS OF THE SEA THAT ARE NOT INCLUDED IN THE EXCLUSIVE ECONOMIC ZONE, IN THE TERRITORIAL SEA OR IN THE INTERNAL WATERS OF A STATE, OR IN THE ARCHIPELAGIC WATERS OF AN ARCHIPELAGIC STATE. THIS ARTICLE DOES NOT ENTAIL ANY ABRIDGEMENT OF THE FREEDOMS ENJOYED BY ALL STATES IN THE EXCLUSIVE ECONOMIC ZONE IN ACCORDANCE

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WITH ARTICLE 46.

ARTICLE 76

IN PARAGRAPH 1, DELETE FOLLOWING SENTENCE:  
"ACCORDINGLY, NO STATE MAY VALIDLY PURPORT TO SUBJECT ANY PART OF THEM TO ITS SOVEREIGNTY."

ARTICLE 77 BIS

NO STATE MAY VALIDLY PURPORT TO SUBJECT ANY PART OF THE HIGH SEAS TO ITS SOVEREIGNTY.

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UNCLAS SECTION 2 OF 6 USUN 2276

FROM LOS DEL

PART III

ARTICLE 59

AMEND SUBPARAGRAPH E) OF PARAGRAPH 1 AS FOLLOWS:

(E) ENSURE, SUBJECT TO PARAGRAPH 2 OF THIS ARTICLE,  
THAT THE RESEARCH RESULTS ARE MADE INTERNATIONALLY  
AVAILABLE THROUGH APPROPRIATE NATIONAL OR INTERNATIONAL  
CHANNELS, AS SOON AS FEASIBLE;

ADD TO RSNT A NEW PARA 2:

2. THIS ARTICLE IS WITHOUT PREJUDICE TO THE CONDITIONS  
ESTABLISHED BY THE LAWS AND REGULATIONS OF THE COASTAL  
STATE FOR THE GRANTING OF CONSENT WHERE SUCH CONSENT MAY  
BE WITHHELD IN ACCORDANCE WITH ARTICLE 60.

ARTICLE 60

1. MARINE SCIENTIFIC RESEARCH ACTIVITIES IN THE EXCLUSIVE  
ECONOMIC ZONE OR ON THE CONTINENTAL SHELF SHALL BE CONDUCTED  
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WITH THE CONSENT OF THE COASTAL STATE.

2. THE COASTAL STATE SHALL, IN NORMAL CIRCUMSTANCES,  
GRANT ITS CONSENT FOR A MARINE SCIENTIFIC RESEARCH  
PROJECT BY ANOTHER STATE OR COMPETENT INTERNATIONAL ORGANIZATION  
IN THE EXCLUSIVE ECONOMIC ZONE OR ON THE CONTINENTAL SHELF  
TO BE CARRIED OUT IN ACCORDANCE WITH THIS CONVENTION,  
EXCLUSIVELY FOR PEACEFUL PURPOSES AND IN ORDER TO INCREASE  
SCIENTIFIC KNOWLEDGE OF THE MARINE ENVIRONMENT FOR THE  
BENEFIT OF ALL MANKIND. TO THIS END, COASTAL STATES SHALL  
ESTABLISH RULES AND PROCEDURES ENSURING THAT SUCH CONSENT  
WILL NOT BE DELAYED OR DENIED UNREASONABLY.

3. A COASTAL STATE MAY HOWEVER IN ITS DISCRETION, WITHHOLD  
ITS CONSENT TO THE CONDUCT OF A MARINE SCIENTIFIC RESEARCH  
PROJECT OF ANOTHER STATE OR COMPETENT INTERNATIONAL  
ORGANIZATION IN THE EXCLUSIVE ECONOMIC ZONE OR ON THE  
CONTINENTAL SHELF IF:  
A) THAT PROJECT IS OF DIRECT SIGNIFICANCE FOR THE  
EXPLORATION OR EXPLOITATION OF LIVING OR NON-LIVING  
RESOURCES;

B) THAT PROJECT INVOLVES DRILLING INTO THE CONTINENTAL SHELF, ANY USE OF EXPLOSIVES OR THE INTRODUCTION OF SUBSTANCES WHICH ARE LIKELY TO HARM THE MARINE ENVIRONMENT;  
C) THAT PROJECT INVOLVES THE CONSTRUCTION, OPERATION OR USE OF SUCH ARTIFICIAL ISLANDS, INSTALLATIONS AND STRUCTURES AS ARE REFERRED TO IN ARTICLE 48 OF PART II OF THIS CONVENTION;  
D) THE INFORMATION COMMUNICATED PURSUANT TO ARTICLE 58 REGARDING THE NATURE AND OBJECTIVES OF THE PROJECT IS INACCURATE OR IF THE RESEARCHING STATE OR COMPETENT INTERNATIONAL ORGANIZATION HAS OUTSTANDING OBLIGATIONS TO THE COASTAL STATE FROM A PRIOR RESEARCH PROJECT.

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4. MARINE SCIENTIFIC RESEARCH ACTIVITIES IN THE EXCLUSIVE ECONOMIC ZONE OR ON THE CONTINENTAL SHELF SHALL NOT UNDULY INTERFERE WITH ACTIVITIES UNDERTAKEN BY THE COASTAL STATE IN ACCORDANCE WITH ITS SOVEREIGN RIGHTS AND JURISDICTIONS AS PROVIDED FOR IN THIS CONVENTION.

ARTICLE 61  
DELETE

ARTICLE 64  
THE RESEARCHING STATE OR COMPETENT INTERNATIONAL ORGANIZATION MAY PROCEED WITH A RESEARCH PROJECT, AND CONSENT BY THE COASTAL STATE SHALL BE DEEMED TO HAVE BEEN GRANTED, UPON THE EXPIRY OF FOUR-- MONTHS FROM THE DATE UPON WHICH BOTH THE REQUEST FOR CONSENT TO THE PROJECT AND THE INFORMATION REQUIRED PURSUANT TO ARTICLE 58 WERE COMMUNICATED TO THE COASTAL STATE, UNLESS WITHIN THAT PERIOD THE COASTAL STATE HAS INFORMED THE RESEARCHING STATE OR ORGANIZATION THAT:

--THIS WOULD REQUIRE AMENDMENT OF ARTICLE 58 TO REQUIRE NOTIFICATION SIX MONTHS IN ADVANCE.

A) IT HAS WITHHELD ITS CONSENT UNDER THE PROVISIONS OF ARTICLE 60; OR  
B) THE INFORMATION GIVEN BY THE RESEARCHING STATE OR COMPETENT INTERNATIONAL ORGANIZATION REGARDING THE NATURE OR OBJECTIVES OF THE RESEARCH PROJECT DOES NOT CONFORM TO THE MANIFESTLY EVIDENT FACTS; OR  
C) IT REQUIRES SUPPLEMENTARY INFORMATION RELEVANT TO THE CONDITIONS AND INFORMATION PROVIDED FOR UNDER ARTICLES 58 AND 59; OR  
D) OUTSTANDING OBLIGATIONS EXIST WITH RESPECT TO A PREVIOUS RESEARCH PROJECT CARRIED OUT BY THAT STATE OR ORGANIZATION, WITH REGARD TO CONDITIONS ESTABLISHED IN

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ARTICLE 59.

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FROM LOS DEL

ARTICLE 65

1. THE COASTAL STATE SHALL HAVE THE RIGHT TO REQUIRE THE  
CESSATION OF ANY RESEARCH ACTIVITIES IN PROGRESS WITHIN ITS  
ECONOMIC ZONE OR ON ITS CONTINENTAL SHELF IF:  
A) THE INFORMATION INITIALLY COMMUNICATED TO THE  
COASTAL STATE AS PROVIDED UNDER ARTICLE 58 REGARDING THE  
NATURE, OBJECTIVES, METHOD, MEANS OR GEOGRAPHICAL AREAS  
OF THE RESEARCH PROJECT IS SHOWN TO BE INACCURATE; OR  
B) THE RESEARCHING STATE OR COMPETENT INTERNATIONAL  
ORGANIZATION FAILS TO COMPLY WITH THE CONDITIONS ESTABLISHED  
IN ARTICLE 59 WITH RESPECT TO THE RIGHTS OF THE COASTAL  
STATE IN THE PROJECT AND COMPLIANCE IS NOT SECURED WITHIN  
A REASONABLE DELAY.

ARTICLE 67

1. COASTAL STATES SHALL, FOR THE PURPOSE OF GIVING  
EFFECT TO BILATERAL OR REGIONAL AND OTHER MULTILATERAL

AGREEMENTS AND IN A SPIRIT OF INTERNATIONAL COOPERATION TO  
PROMOTE AND FACILITATE MARINE SCIENTIFIC RESEARCH  
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ACTIVITIES CONDUCTED IN ACCORDANCE WITH THIS CONVENTION,  
ADOPT RESONABLE AND UNIFORMLY APPLIED RULES, REGULATIONS  
AND ADMINISTRATIVE PROCEDURES APPLICABLE TO RESEARCHING  
STATES AND COMPETENT INTERNATIONAL ORGANIZATION DESIRING  
TO CARRY OUT RESEARCH ACTIVITIES IN THE ECONOMIC ZONE  
OR ON THE CONTINENTAL SHELF, AND SHALL, FOR THE SAME  
PURPOSE, ADOPT MEASURES TO FACILITATE ACCESS TO THEIR  
HARBORS AND TO PROMOTE ASSISTANCE FOR MARINE SCIENTIFIC  
RESEARCH VESSELS CARRYING OUT SUCH ACTIVITIES, IN  
ACCORDANCE WITH THIS CONVENTION.

ARTICLE 76

UNLESS OTHERWISE AGREED OR SETTLED BY THE PARTIES CONCERNED,  
DISPUTES RELATING TO THE INTERPRETATION OR APPLICATION  
OF THE PROVISIONS OF THIS CONVENTION WITH REGARD TO MARINE  
SCIENTIFIC RESEARCH SHALL BE SETTLED IN ACCORDANCE WITH  
SECTION II OF PART IV OF THIS CONVENTION, EXCEPT THAT  
THE COASTAL STATE SHALL NOT BE OBLIGED TO SUBMIT TO SUCH  
SETTLEMENT ANY DISPUTE ARISING OUT OF:  
A) THE EXERCISE BY THE COASTAL STATE OF ITS DISCRETION  
TO WITHHOLD ITS CONSENT IN ACCORDANCE WITH ARTICLE 60; OR  
B) THE DECISION BY A COASTAL STATE TO TERMINATE A  
RESEARCH PROJECT IN ACCORDANCE WITH ARTICLE 65.

PENDING SETTLEMENT OF A DISPUTE IN ACCORDANCE WITH ARTICLE  
76, THE RESEARCHING STATE OR COMPETENT INTERNATIONAL  
ORGANIZATION SHALL NOT ALLOW RESEARCH ACTIVITIES TO COMMENCE  
OR CONTINUE WITHOUT THE EXPRESS APPROVAL OF THE COASTAL  
STATE CONCERNED.

DRAFT PROVISION ON DISPUTE SETTLEMENT ASPECTS OF FISHERIES  
MATTERS

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ARTICLE --

1. UNLESS OTHERWISE AGREED OR SETTLED BY THE PARTIES  
CONCERNED, DISPUTES RELATING TO THE INTERPRETATION OR  
APPLICATION OF THE PROVISIONS OF THIS CONVENTION WITH  
REGARD TO FISHERIES SHALL BE SETTLED IN ACCORDANCE WITH  
SECTION II OF PART IV OF THIS CONVENTION, EXCEPT THAT THE

COASTAL STATE SHALL NOT BE OBLIGED TO ACCEPT THE SUBMISSION TO SUCH SETTLEMENT OF ANY DISPUTE RELATING TO ITS SOVEREIGN RIGHTS WITH RESPECT TO THE LIVING RESOURCES IN THE EXCLUSIVE ECONOMIC ZONE OR THEIR EXERCISE, INCLUDING ITS DISCRETIONARY POWERS FOR DETERMINING THE TOTAL ALLOWABLE CATCH UNDER ARTICLE 50, ITS HARVESTING CAPACITY UNDER ARTICLE 51, THE ALLOCATION OF SURPLUSES TO OTHER STATES UNDER ARTICLE 51 AND THE TERMS AND CONDITIONS ESTABLISHED IN ITS CONSERVATION AND MANAGEMENT REGULATIONS.

2. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH 1 ABOVE, ANY DISPUTE ARISING OUT OF AN ALLEGATION THAT THE COASTAL STATE HAS MANIFESTLY AND GROSSLY FAILED TO COMPLY WITH ITS OBLIGATIONS UNDER ARTICLE 50, PARAGRAPH 2, OF PART II TO ENSURE THAT THE MAINTENANCE OF THE LIVING RESOURCES IN THE EXCLUSIVE ECONOMIC ZONE IS NOT ENDANGERED BY OVER-EXPLOITATION, SHALL, WHERE NO SETTLEMENT HAS BEEN REACHED BY RE COURSE TO THE PROVISIONS OF SECTION I OF PART IV OF THIS CONVENTION, BE SUBMITTED, AT THE REQUEST OF ANY PARTY TO THE DISPUTE, AND NOTWITHSTANDING THE PROVISIONS OF ARTICLE 6, PARAGRAPH 3 OF THAT PART, TO THE CONCILIATION PROCEDURES PROVIDED FOR IN ANNEX I THERETO.

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FROM LOS DEL

GENERAL PROVISION PRECEDING CHAPTER I OF PART I OF THE

CONVENTION:

ALL STATES SHALL EXERCISE THE RIGHTS AND JURISDICTIONS  
RECOGNIZED IN THIS CONVENTION IN SUCH A MANNER AS NOT TO  
UNNECESSARILY OR ARBITRARILY HARM OTHER STATES OR THE  
INTERNATIONAL COMMUNITY.

NEW ARTICLE PRECEDING ARTICLE 1 OF PART IV:

WITHOUT PREJUDICE TO THE PROVISIONS OF THIS CHAPTER,  
ANY DISPUTE THAT MAY ARISE FROM ANY ALLEGED ABUSE OF  
RIGHTS AS DEFINED IN ARTICLE -- SHAL BE SETTLED BY ONE  
OF THEPROCEDURES PROVIDED FOR IN THIS CONVENTION, IN  
ACCORDANCE WITH THE NATURE OF THE RIGHT OR  
JURISDICTION ALLEGEDLY ABUSED.

ARTICLE 66  
NEIGHBOURING LAND-LOCKED AND OTHER GEOGRAPHICALLY  
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DISADVANTAGED STATES SHALL, AT THEIR REQUEST, BE GIVEN THE  
OPPORTUNITY OF PARTICIPATING, WHENEVER FEASIBLE, IN A  
PROPOSED RESEARCH PROJECT IN THE ECONOMIC ZONE OR ON THE  
CONTINENTAL SHELF OF A COASTAL STATE.

UNQUOTE

THE TEXT WAS SUBMITTED TO THE CHAIRMAN OF COMMITTEE II  
(AGUILAR) BY THE REAPPORTIONING OF A GROUP OF 15 STATES FROM  
VARIOUS REGIONS (THE CASTANEDA GROUP). THIS GROUP HAS BEEN  
INVOLVED IN INTENSE NEGOTIATIONS FOR THE PAST TWO WEEKS IN AN  
EFFORT TO REACH AN ACCOMMODATION ON THE PROBLEMS INVOLVING  
THE INTERRELATIONSHIP AMONG ARTICLES 44, 46 AND 75 (AS  
WELL AS SCIENTIFIC RESEARCH AND CDS REGARDING FISHERIES).

2. THE TEXT WAS SUBMITTED TO AGUILAR BY THE GROUP'S  
RAPPORTEURS (MEXICO AND NORWAY) AS AN ANONYMOUS TEST,  
NOT ATTRIBUTABLE TO ANY SPECIFIC GROUP AND/OR DELEGATIONS.  
IN OPENING THE MEETING, AGUILAR STRESSED THAT THE REVISED  
ARTICLES SHOULD NOT BE LOOKED UPON AS NEGOTIATED AND/OR  
APPROVED FORMULAS BUT RATHER AS A CROSS-COMMITTEE EFFORT  
TO RESOLVE THE OUTSTANDING ISSUES RELATED TO EEZ. HE  
FURTHER ACKNOWLEDGED THAT ALTHOUGH THE TEST  
DID REPRESENT A PACKAGE-DEAL ENCOMPASSING ISSUES  
WHICH WERE PERTINENT TO COMMITTEE II, III AND PART IV  
(DISPUTE SETTLEMENT), FROM A PROCEDURAL STANDPOINT,  
IT WAS MANDATORY THAT ONLY THOSE ARTICLES OF THE TEXT  
WHICH CAME UNDER THE SPECIFIC JURISDICTION AND PURVIEW  
OF COMMITTEE II WOULD BE THE SUBJECT OF DISCUSSION AND  
DEBATE. THE MEETING WAS SURROUNDED BY AN AURA OF  
ANXIOUS EXPECTATION WHICH WAS MAGNIFIED BY THE PRESENCE OF

MANY HEADS OF DELEGATIONS.

3. PERU BEGAN ITS USUAL DISCOURSE ON THE FACT THAT THE  
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EEZ MUST NOT BE ASSIMILATED INTO EITHER THE HIGH SEAS AND/OR TERRITORIAL SEA. ALTHOUGH IT DID NOT REJECT THE PROPOSED TEXT AS TOTALLY UNACCEPTABLE, IT DID REGISTER A NUMBER OF PERCEIVED OBJECTIONS AND RESERVATIONS, AMONG WHICH WERE: (1) THE ABSENCE OF SPECIFIC LANGUAGE IN ARTICLE 43 BIS WHICH CLEARLY DISTINGUISHED THE EEZ FROM BOTH THE HIGH SEAS AND TERRITORIAL SEA; (2) THE INTRODUCTION IN ARTICLE 46, BY WAY OF REFERENCE TO ARTICLE 76, OF A GREATER RANGE OF THIRD STATE FREEDOMS IN THE EEZ THAN ON THE HIGH SEAS; THE LACK OF AN ABSOLUTE, UNAMBIGUOUS DEFINITION OF THE HIGH SEAS BEYOND THE EEZ IN ARTICLE 75. IN RESPECT TO ARTICLE 46(2), PERU RENEWED ITS PROPOSAL THAT THERE BE A REDISTRIBUTION OF ARTICLES IN THE HIGH SEAS CHAPTER SO AS TO CLEARLY DISTINGUISH THOSE PERTAINING RESPECTIVELY TO THE HIGH SEAS AND THE EEZ. BRAZIL AND URUGUAY INTERVENED TO SUPPORT THE STATEMENT OF PERU. UNLIKE PERU, HOWEVER, BOTH SUPPORTED THE ARTICLE 43 BIS OF THE REVISED TEXT, ALTHOUGH THEY CONCURRED IN MOST OF THE COMMENTS WHICH THEIR FELLOW TERRITORIALIST HAD OFFERED. URUGUAY WAS SOMEWHAT INCENSED BY THE PROCEDURE WHICH HAD BEEN EMPLOYED IN THE FORMULATION OF THE NEW TEXT AND STATED IN CATEGORICAL TERMS THAT IN ITS VIEW THE TEXT REPRESENTED A NEGOTIABLE DOCUMENT SUBJECT TO DEBATE AND AMENDMENTS AND NOT QTE A FAIT ACCOMPLI UNQTE. SIGNIFICANTLY, ALL THREE DELS. STATED THAT THE PRODUCT OF THE CASTANEDA GROUP DID NOT REPRESENT A FUTILE ATTEMPT AT COMPROMISE, BUT WAS A LEGITIMATE STARTING POINT FOR MUTUAL ACCOMODATION, WHICH COULD BE FURTHER NEGOTIATED DURING THE NEXT SESSION. ALL DID, HOWEVER, PROTEST THE POSSIBLE INCLUSION OF THE REVISED FORMULAS IN THE FORTHCOMING COMPOSITE TEXT.

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FROM LOS DEL

4. NORWAY, AUSTRALIA, FRG, US, MEXICO AND CANADA ALL  
INTERVENED IN GREATER OR LESSER SUPPORT OF THE PROPOSED  
TEXT TO BE INCLUDED IN THE ICNT. NORWAY UNDERTOOK A  
POINT-BY-POINT REFUTATION OF THE PERUVIAN OBJECTIONS,  
PRASIED THE TEXT FOR ITS ATTEMPTS AT BALANCED COMPROMISE,  
WITH THE POSSIBILITIES WHICH THE TEXTS OFFERED FOR MUTUAL  
ACCOMADATION. AUSTRALIA PRESENTED A DETAILED CHARACTERI-  
ZATION OF THE QTE FORM UNQTE OF THE DISCUSSION IN THE  
CASTANEDA GROUP. THE POSITIVE VALUE OF THE CURRENT AMEND-  
MENTS, AUSTRALIA STATED WAS THAT THEY REPRESENTED AN  
ATTEMPT TO SATISFY THE INTERESTS OF THEPRINCIPAL CON-  
TENDERS - MARITIME AND COASTAL STATES -ON THE JURIDICAL  
NATURE OF THE EETGMV TWO THIS END, ARTICLE 46REPRESENTED  
CONCESSIONS ON THE PART OF COASTAL STATES; ARTICLE 75  
ON THE PART OF MARITIME STATES. THE FRG INDICATED ITS  
SUPPORT PROCEDURALLY FOR THE PROPOSED COMPROMISE AND  
REQUESTED THE CHAIRMAN TO COMMUNICATE THE NEW FORMULATION  
TO THE PRESIDENT OF THE CONFERENCE FOR INCLUSION IN THE  
COMPOSITE TEXT. THE US (RICHARDSON) INDICATED THE  
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REASONS WHY IT BELIEVED THE NEW PROPOSALS SHOULD BE IN-  
CORPORATED IN THE COMPOSITE TEXT ANDISSUED A CHALLENGE  
TO THE CHAIRMAN IN THE FORM OF A VOTE OF CONSIDENCE  
THAT HIS QTE WISDOM, RESPONSIBILITY AND COURAGE UNQTE  
WOULD PREVAIL IN THIS QTE MOST CRITICAL MOMENT OF THE  
CONFERENCE UNQTE. BOTH MEXICO AND CANADA, IN THEIR  
RESPECTIVE INTERVENTIONS, ATTEMPTED TO COUNTERBALANCE  
THE DISEQUILIBRIUM ARGUMENTS OF THE TERRITORIALISTS.

5. THE PROPOSED TEXT WAS ALSO CRITIZED BY DELEGATIONS  
OTHER THAN TRADITIONAL, DIE#-HARD TERRITORIALISTS.  
CHILE'S INTERVENTION WAS BASICALLY ON A PROCEDURAL POINT,  
ALTHOUGH A MESAURE OF SUBSTANTIVE DISSATISFACTION WAS  
IMPLICIT IN ITS DISCOURSE. IT EXPRESSED A MAJOR DIS-

ILLUSIONMENT AND QTE CONFIRMATION OF ITS FEARS UNQTE IN LEARNING THAT THE PROPOSED TEXT HAD ALREADY BEEN SUBMITTED TO THE PRESIDENT OF THE CONFERENCE PRIOR TO A FULL DEBATE ON THE REVISED PROVISIONS. IT SUGGESTED, IN ORDER TO RECTIFY THIS INDISCRETION, THAT A MEMORANDUM BE INCORPORATED INTO A COMPOSITE TEXT STATING THAT THE REFORMULATED ARTICLES REPRESENTED A QTE TEXT TO BE NEGOTIATED UNQTE AND NOT A FINAL AGREEMENT. SWEDEN WAS DISCONCERTED BY THE DIFFERING POINTS OF VIEW WHICH STILL EMANATED FROM THE CASTANEDA GROUP. THIS MADE IT DIFFICULT TO CONFIRM WITH CERTAINTY THE AUTHORSHIP OF THE PROPOSED COMPROMISE AS WELL AS TO DETERMINE THE MAGNITUDE AND DEPTH OF SUPPORT WHICH THE PROPOSAL COMMANDED AMONG THE MAJOR PARTICIPANTS FROM WHOSE EFFORTS THE TEXT HAD EMERGED. MORE CONCRETELY, SWEDEN RESERVED ITS OPINION ON THE PACKAGE UNTIL ITS OTHER ELEMENTS (SCIENTIFIC RESEARCH AND CDS ARTICLES) WERE SUFFICIENTLY EXAMINED, ALTHOUGH IT DID EXPRESS AN IMMEDIATE DISSATISFACTION WITH ARTICLE 46(1), CHARACTERI-  
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ZING IT AS VAGUE, AMBIGUOUS, AND IN RESPECT TO FUTURE INTERPRETATION, QTE LIABLE TO CAUSE A GREAT DEAL OF CONFUSION UNQTE. ZAMBIA AND BOLIVIA, REPRESENTATING THE LL/GDS PERSPECTIVE, ASSUMED THAT THERE WAS SOMETHING CONSPIRATORIAL ABOUT THE NEW PROVISIONS SINCE THEY SEEMINGLY WERE DESIGNED TO SATISFY THE DEMANDS OF ONLY TWO GROUPS OF STATES WITHIN THE CONFERENCE TO THE DETRIMENT OF A THIRD MAJOR GROUPING - THE LL/GDS. BOTH OBJECTED TO THE PROPOSED TEXT AND RENEWED THEIR PROPOSALS FOR REGIONAL AND SUBREGIONAL ECONOMIC ZONES. THE SOVIET UNION, IN A LENGTHY INTERVENTION, ALSO CRITIZED THE TEXT FOR ITS LACK OF BALANCE. IN DIAMETRICAL OPPOSITION TO THE TERRITORIALISTS, THE SOVIETS WERE DISSATISFIED WITH CERTAIN PROVISIONS OF THE TEXTS, E.G. ARTICLES 43 BIS, 75 AND 77 BIS WHICH THEY FELT EITHER WENT TO FAR IN SECURING COASTAL STATE RIGHTS IN THE EEZ AND/OR FAILED TO ADEQUATELY SAFEGUARD THE RIGHTS OF THIRD PARTIES ON THE ZONE. IN CONFORMITY WITH THEIR OBJECTIONS TO THE CONCEPT OF A SUI GENERIS EEZ, THE SOVIETS PROPOSED THE INCLUSION OF WORDING IN ARTICLES 46(2) KAND 77 BIS, WHICH WOULD HAVE THE EFFECT OF EXPLICITLY DENYING ENTITLEMENT OF SOVEREIGNTY TO ANY STATE QTE OVER THE SPACE COVERED BY THE ECONOMIC ZONE UNQTE.

6. ON JULY 13 NIGERIA GAVE A PROFOUNDLY ANALYTICAL, WELL-ARGUED, AND DISPASSIONATE ASSESSMENT OF THE NEW TEXT. ITS ANALYSIS INCORPORATED THE FOLLOWING POINTS:  
(A) THE RSNT ARTICLES ON THE JURIDICAL STATES OF THE EEZ WAS ACCEPTABLE TO ONLY ONE FACTION WITHIN THE

CONFERENCE -- COASTAL STATES -- AND WAS TOTALLY UNACCEPTABLE TO OTHERS, INCLUDING THE MARITIME STATES AND THE LL/GDS.

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ACTION DLOS-09

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(B) THE REVISED TEXT INCORPORATES THE PRINCIPLE OF SPLITTING-THE-DIFFERENCE IN AN ATTEMPT TO ACCOMMODATE THE INTERESTS OF THESE TWO DIAMETRICALLY OPPOSED BLOCS. THIS WAS ACHIEVED BY MAXIMIZING THE INTERESTS OF MARITIME STATES, INCLUDING THE SUPERPOWERS, AND THE LL/GDS IN RESPECT TO ARTICLE 46 (RIGHTS AND DUTIES IN THE EEZ) WHILE CONCOMITANTLY ENHANCING THE INTERESTS OF COASTAL STATES IN RESPECT TO ARTICLES 43 BIS, 44, AND 75. THIS CONSENSUAL PROCESS INVOLVED NOT ONLY MUTUAL CONCESSIONS BUT ALSO MUTUAL GAINS.

8. NUMEROUS AMENDMENTS WERE PROPOSED TO THE NEW COMPOSITE JURIDICAL STATUS TEXT. PERU PROPOSED AMENDMENTS WHICH WERE REPRESENTATIVE OF THOSE GENERALLY ADVANCED BY THE TERRITORIALISTS, INCLUDING BRAZIL, ARGENTINA, AND URUGUAY. THESE AMENDMENTS INCLUDED THE FOLLOWING:  
(1) IN ARTICLE 43 BIS, ADD A NEW PARA 2 WHICH WOULD READ QTE NO STATE CAN EXTEND TO ANY PART OF THE EEZ THE SOVEREIGNTY WHICH IT EXERCISES IN ITS TERRITORIAL

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SEA UNQTE; (2) IN A NEW ART. 44 BIS, PARA 3 ADD QTE NO STATE CAN CLAIM TO ENJOY FREEDOMS OTHER THAN THOSE ENJOYED IN ARTICLE 46 UNQTE; (3) IN ARTICLE 44(1) INSERT QTE AS DISTINCT FROM THE TERRITORIAL SEA OR HIGH SEAS UNQTE; (4) IN ARTICLE 44(1) (C), REPLACE QTE PROVIDED FOR UNQTE WITH QTE COMPATIBLE WITH UNQTE; (5) IN ARTICLE 46(2), ADD QTE PEACEFUL OR NORMAL UNQTE BEFORE QTE OPERATIONS OF SHIPS UNQTE; (6) IN ARTICLE 46(2), ADD A FOOT- NOTE NOTING THE POSSIBLE REDISTRIBUTION OF ARTICLES BEING CONSIDERED UNDER HEADING APPLICABLE RESPECTIVELY TO (A) ALL OCEAN SPACES; (B) THE HIGHSEAS ONLY; (C) UNIQUELY TO THE EEZ. THE LL/GDS GROUP WOULD: (1) DELETE THE WORD QTE EXCLUSIVE UNQTE WHEREVER IT APPEARS BEFORE QTE ECONOMIC ZONE UNQTE; (2) SUPPORT THE IRAQI AMENDMENT TO DELETE QTE EEZ UNQTE FROM ARTICLE 75; (3) ADD A PRIVISION EXPLICITY STATING THAT THE EEZ IS A PART OF REGIONAL AND SUB-REGIONAL ECONOMIC ZONES (ZAMBIA AND BOLIVIA); (4) CONSTRUCT A PACKAGE PROPOSAL WHICH WOULD INCLUDE ACCEPTABLE ARTICLES 58 AND 59. ROMANIA AND YUGOSLAVIA WOULD INCLUDE THEIR PROPOSED ARTICLES51, PARAS (2) -(3) AS PART OF AN OVERALL COMPROMISE PACKAGE.

9. 37 STATES EXPRESSED THEIR VIEWS ON THE REVISED TEXT ON JULY 13. THE LL/GDS GROUP RESERVED ITS POSITIVE ON THE NEW FORMULATION PENDING THE OUTCOME OF NEGOTIATIONS ON ARTICLES 58,59 AND 60. A REVISED TEXT ON THESE (INCLUDING A NEW ARTICLE 59 BIS) WAS SUBMITTED TO THE COMMITTEE IN THE FORM OF AN ANONYMOUS PAPER. HOWEVER, BECAUSE OF THE TIME (LATE EVENING) AND FORM (ONLY ONE WORKING LANGUAGE) IN WHICH IT WAS PRESENTED, DEBATE ON TH TEXT WAS POSTPONED UNTIL THE NEXT SESSION. AUSTRIA AFTER CONSULTATION UNCLASSIFIED

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WHITH THE LL/GDS, STATED THAT AN INTERSESSIONAL MEETING OF THE GROUP OF 21 WOULD BE HELD FOR CONSIDERATION OF THESE PROPOSED ARTICLES AND THAT ALL INTERESTED STATES WERE URGED TO ATTEND. MEANWHILE, MEMBERS OF THE LL/GDS GROUP STATED THAT THEY WOULD NOT DEMAND THE INCLUSION OF THESE NEW ARTICLES IN INFORMAL COMPOSITE NEGOTIATING TEXT (ICNT), BUT RATHER, WOULD SIMPLY RESERVE ITS POSITION ON THESE ARTICLES AS THEY NOW APPEAR IN THE RSNT AS WELL AS ON THE NEWLY PROPOSED LEGAL STATUS ARTICLES.

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